

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

In Re:

Dudley Lewellen, Jr.,

Case No. **16-28029-E**
Chapter 7

*Debtor(s)
and Plaintiff(s),*

v.

Adversary Proceeding Number

**Ocwen Loan Servicing, LLC
Servicer for Wells Fargo Bank,
National Association, as Trustee
For Ownit Mortgage Loan Trust,
Mortgage Loan Asset-Backed
Certificates, Series 2006-2**

*Creditor
and Defendant.*

PLAINTIFF'S COMPLAINT FOR TURNOVER OF PROPERTY TO THE ESTATE

COMES NOW, the Plaintiff(s), that alleges and requests as follows:

1. This is an adversary proceeding brought pursuant to FED. R. BANKR. P. 7001(1) and 11 U.S.C. § 542(a) to recover a certain money (the “Proceeds”) asserted to have been be repossessed and in the possession of Defendant;
2. The Plaintiff(s) allege that this is a core proceeding as that term is defined by Section 157(b)(2)(E) of Title 28 of the United States Code in that it concerns claims and matters arising out of the administration of this bankruptcy case and rights duly established under Title 11 of the United States Code and other applicable federal law;
3. The Plaintiff(s) further allege that this Court has both personal and subject matter jurisdiction to hear this case under the provisions of Title 28 of the United States Code § 1334, 151 and 157(a);
4. The underlying Chapter 13 bankruptcy case was commenced by the filing of a voluntary petition with the Clerk of this Court on September 2, 2016;
5. An Order for Relief under the provisions of Chapter 13 of Title 11 of the United States Code was duly entered by this Court upon the filing of the petition. This order served to invoke the provisions of Section 362(a) of Title 11 of the United States Code;

6. A Notice Of Conversion From Chapter 13 Case To Chapter 7 Case was filed on April 26, 2018;
7. The Chapter 7 Trustee's Report of No Distribution and Meeting of Creditors Held was filed on June 1, 2018;
7. That Plaintiff received the Mortgage Account Statement, attached as Exhibit "A", in late May or early June, 2018, which states a "Post-Petition Payment Amount" due in the amount of \$6,482.06, and a "Pre-Petition Arrearage" in the amount of \$330.44;
8. Believing that he could bring the mortgage current, Plaintiff forwarded approximately \$6,482.06 in funds donated to him by the church for which he is pastor to Defendant;
9. That Defendant filed its Motion For Relief From The Automatic Stay on July 16, 2018, claiming total payments due in the amount of \$21,565.14;
10. That Defendant's Order Granting Amended Motion For Relief From Automatic Stay was entered on August 22, 2018;
11. That Defendant refuses to refund the payment to Plaintiff in the amount of \$6,482.06;
12. Plaintiff believes that he was misled into forwarding the Proceeds in the belief that the loan would be rendered current;
13. That under the particular facts and circumstances and applicable law the Plaintiff(s) is entitled to possession of the above described Proceeds.

WHEREFORE, the Plaintiff(s) respectfully prays for an expedited hearing and order directing turnover of the above described Proceeds from the Defendant.

Respectfully submitted,

/s/S. Jonathan Garrett
S. Jonathan Garrett (019389)
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**NOTICE OF EXPEDITED HEARING RE ABOVE COMPLAINT OF PLAINTIFF
SEEKING TURNOVER OF CERTAIN PROPERTY FROM DEFENDANT COMBINED
WITH RELATED NOTICES**

NOTICE IS HEREBY GIVEN in accordance with L.B.R. 9075-1 that **an expedited hearing shall be held on the _____ day of _____, _____, at _____ a.m.** in the **United States Bankruptcy Court, Courtroom No. _____, 200 Jefferson Avenue, Memphis, Tennessee**, to consider the above-entitled adversary proceeding seeking a turnover of the above-described property pursuant to 11 U.S.C. § 542(a); that the Defendant may appear at the time and place above-stated and request adequate protection pursuant to 11 U.S.C. § 363(e) and 361 as a precondition of turnover; that the attorney for the Plaintiff should provide immediate telephonic notice of the time and place of the expedited hearing and also transmit a copy of this Complaint and Notice of Expedited Hearing to the Defendant, the Plaintiff, and the Chapter 13 trustee; and that the attorney for the Plaintiff shall promptly file a written certificate of such notice and service with the Clerk of Court.

UNITED STATES BANKRUPTCY COURT CLERK

By: _____

Deputy Clerk

Date: _____

CERTIFICATE OF SERVICE

I, S. Jonathan Garrett, attorney for Plaintiff(s) / Debtor(s), certify that on September 10, 2018, I have delivered the foregoing Complaint via hand delivery, email, facsimile and/or US Mail, postage prepaid on the following parties:

Plaintiff (s) / Debtor(s)

Chapter 13 Trustee

Defendant(s) / Creditor(s)

Ocwen Loan Servicing, LLC

Servicer for Wells Fargo Bank, National Association, as Trustee For Ownit Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2006-2

Attn Bankruptcy Department
1661 Worthington Rd Ste 100
West Palm Beach, FL 33409-6493

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/s/ S. Jonathan Garrett